

March 8, 2013

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Cox Communications, Inc., *Petition of Cox Communications Inc. for  
Forbearance*; WC Docket No. 09-197  
**Orders of the Corporation Commission of Oklahoma**

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Dear Ms. Dortch:

In a January 23, 2013, meeting with Wireline Competition Bureau staff, representatives of Cox Communications, Inc. ("Cox"), discussed Cox's petition for forbearance, filed on August 12, 2012 in the above-referenced docket. During the meeting, Cox explained that multiple state commissions had been acting on petitions granting Cox ETC status in the service areas of rural ILECs, contingent upon grant of Cox's petition and that, as a result, grant of Cox's petition would result in immediate benefits to consumers.

Attached to this letter are recent Orders of the Corporation Commission of Oklahoma designating the local affiliate of Cox as a low-income-only ETC in certain rural ILEC exchanges, conditioned upon grant of Cox's petition.

Please contact the undersigned if you have any questions.

Respectfully submitted,



J.G. Harrington  
*Counsel to Cox Communications, Inc.*

cc: Alexander Minard, Esq.  
Garnet Hanly, Esq.

**BEFORE THE CORPORATION COMMISSION OF OKLAHOMA**

APPLICATION OF COX OKLAHOMA TELCOM ) CAUSE NO. PUD 201100030  
L.L.C. FOR DESIGNATION AS AN ELIGIBLE )  
TELECOMMUNICATIONS CARRIER ) ORDER NO. **607501**

HEARING: August 8, 2012, before the Commission *en banc*

APPEARANCES: Marc Edwards, Attorney *representing* Cox Oklahoma Telcom, L.L.C.  
Ron Comingdeer, Attorney *representing* Bixby Telephone Company  
Allison Chandler, Assistant General Counsel *representing*  
Public Utility Division, Oklahoma Corporation Commission

**FINAL ORDER**

BY THE COMMISSION:

The Corporation Commission of the State of Oklahoma ("Commission") being regularly in session and the undersigned Commissioners being present and participating, there comes on for consideration and action the above-titled and numbered application of Cox Oklahoma Telcom L.L.C. for an order of the Commission.

**PROCEDURAL HISTORY**

1. On February 22, 2011, Cox Oklahoma Telcom L.L.C. ("Cox") filed an Application in the above styled Cause, requesting that it be designated as an Eligible Telecommunications Carrier ("ETC") in the Bixby exchange. Bixby Telephone Company ("Bixby") is the incumbent carrier for the Bixby exchange.
2. On February 25, 2011, Cox Oklahoma filed a Motion to Establish Procedural Schedule, which was granted by the Commission through the issuance of Order No. 585133 on March 21, 2011.
3. A Motion for Intervention was filed by Bixby on March 2, 2011, and Order No. 583719 issued March 21, 2011, granted the intervention.
4. On May 13, 2011, a Motion for Protective Order was filed by Cox and Order No. 586600 issued on June 23, 2011, granted the protective order.

5. Prefiled testimony was filed May 20, 2011, on behalf of Cox, on June 15, 2011, on behalf of the Public Utility Division ("PUD") and on June 24, 2011, on behalf of Bixby.
6. Rebuttal testimony was filed on behalf of Cox on July 7, 2011.
7. The hearing was held August 25, 2011, before the Administrative Law Judge ("ALJ").
8. Post Hearing Briefs were filed by all parties on September 22, 2011, and a reply brief was filed by Bixby on October 27, 2011. On October 31, 2011, Cox filed a Response to the Post Hearing Briefs of Bixby and Staff.
9. Proposed Findings of Fact and Conclusions of Law were filed by all parties on November 17, 2011.
10. The ALJ issued the Report of the Administrative Law Judge on July 16, 2012, recommending the Commission designate Cox as an ETC in the Choctaw exchange for the purpose of receiving low-income support for Lifeline and Link-Up from the Federal Universal Service Fund and the Oklahoma Universal Service Fund.
11. Bixby filed Exceptions to the Report and Recommendation of the ALJ on July 26, 2012.
12. Oral arguments were heard before the Commission *en banc* on August 8, 2012.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Commission finds that it has jurisdiction in this Cause pursuant to Article IX, Section 18 of the Oklahoma Constitution, 17 O.S. §139.106; and 47 U.S.C. §214(e).
2. The Commission further finds that Cox Oklahoma is seeking designation as an ETC in the Bixby exchange for federal and Oklahoma low-income support and is not seeking high cost support. The federal high cost and low-income programs are described in Sections 54.307, 54.401 and 54.411 of the Federal Communications Commission's ("FCC") rules. The Commission rule for the Oklahoma Lifeline Service Program is found at OAC 165:59-9-3.
3. The Commission further finds that ETC applications are governed by the requirements of Section 214(e) of the Communications Act, and the FCC has adopted guidelines it suggests that states consider while evaluating ETC applications.<sup>1</sup> These guidelines are not

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<sup>1</sup> 47 U.S.C. §214(e); Federal-State Joint Board on Universal Service, *Report and Order*, 20 FCC Rcd 6371, 6396 (2005) ("*ETC Guidelines Order*").

mandatory, but provide a general framework of consideration of the issues raised in the ETC certification process.

4. The Commission further finds that it has the authority pursuant to 17 O.S. §139.106 to designate a carrier as an ETC, provided that the carrier:
  - a. Will provide the services supported by the universal service program throughout its designated service area, either by using its own facilities or reselling another carrier's services; and
  - b. Will advertise the availability of its services.<sup>2</sup>
5. The Commission further finds that Cox has requested designation in the Bixby exchange, which is a rural service territory.
6. The Commission further finds that in the case of rural exchanges, such as the Bixby exchange, state commissions are permitted to designate multiple ETCs when they determine doing so is in the public interest.<sup>3</sup>
7. The Commission further finds that its standard for determining whether or not designating additional competitive ETCs (CETCs) is in the public interest was determined in Cause No. PUD 200700408.<sup>4</sup> In said Cause, the Commission found it appropriate to designate only one CETC in each rural exchange unless compelling public interest issues make an additional CETC designation necessary or desirable.
8. The Commission further finds that the facts in this Cause are nearly identical to those in Cause No. PUD 201100029, wherein the ALJ found that Cox should be designated an ETC for the sole purpose of receiving low-income support for Lifeline and Link-Up from the federal Universal Service Fund and not the Oklahoma Universal Service Fund and that Cox should be required to accept Carrier of Last Resort ("COLR") obligations in order for it to be in the public interest to serve in a rural exchange.<sup>5</sup>
9. The Commission further finds that paragraph 23 of the Report of the ALJ in the Cause at hand reads as follows; "With regard to a requirement to assume secondary COLR obligations, the ALJ finds it should not be required to accept COLR obligations because

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<sup>2</sup> 47 U.S.C. § 214(e)(1).

<sup>3</sup> 47 U.S.C. § 2134(e)(2).

<sup>4</sup> "With the availability of Lifeline service from the ILEC and the availability of Lifeline Service from one CETC, the ALJ finds that the goals of the universal service fund will be met, since neither competition nor mobility are goals of the federal universal service fund." ¶32 of ALJ Snapp's Report filed May 26, 2009, in Cause No. PUD 200700408.

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it seeks only to receive low-income support for Lifeline and Link-Up services. Cox Oklahoma's current ETC designation pursuant to Commission Order Nos. 454785 and 580222 did not require Cox Oklahoma to assume any COLR obligations."

10. The Commission further finds that one of the primary purposes of the Lifeline support funding is to insure that the supported services are available, upon reasonable request, to all eligible customers in the Bixby exchange, and therefore, the Commission disagrees with the above-quoted finding in paragraph 23 of the Report of the ALJ.
11. The Commission further finds that in the Report of the ALJ in Cause No. PUD 201100029, the ALJ found in paragraph 23 that; "for the purpose of receiving support from the Oklahoma Universal Service Fund however, the applicable rule to be considered is 165:59-3-14(d)(3)<sup>6</sup>, which is applicable to ETC designation in an area where the ILEC serves fewer than 75,000 lines....the ALJ finds it is not in the public interest to designate Cox Oklahoma as an ETC in the Choctaw exchange for the purpose of receiving funding from the OUSF, because Cox has not agreed to accept secondary COLR responsibility through the Choctaw exchange." The Commission agrees with this analysis, which was absent from the ALJ's analysis in the cause at hand.
12. The Commission further finds that for the purpose of receiving Low-Income support from the Oklahoma Universal Service Fund, the applicable rule is 165:59-3-14(d)(3), which is applicable to ETC designation in an area where the Incumbent Local Exchange Carrier ("ILEC") serves fewer than 75,000 lines. Bixby serves fewer than 75,000 access lines in Oklahoma. Therefore, the Commission finds it is also not in the public interest to

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<sup>6</sup> (d) For any area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand (75,000) access lines within the State, only the incumbent local exchange telecommunications service provider shall be eligible for OUSF funding except;

(3) When the Commission, after notice and hearing, makes a determination that it is in the public interest that another local exchange telecommunications service provider should also be deemed a carrier of last resort and be eligible to receive OUSF funding in addition to the incumbent local exchange telecommunications service provider. It shall not be in the public interest to designate another local exchange telecommunications service provider as being a carrier of last resort and eligible to receive OUSF funding if such designation would cause a significant adverse economic impact on users of telecommunications services generally or if the other carrier refuses to seek and accept carrier of last resort obligations throughout the universal service area as designated by the Commission. The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area and the other local exchange telecommunications service provider meets the requirements of subsection (c) of this Section.

designate Cox as an ETC in the Bixby exchange, for the purpose of receiving OUSF funding, under this rule.

13. The Commission further finds that pursuant to the FCC's March 17, 2005 Order; "...the Commission and state commissions may give more weight to certain factors in the rural context than in the non-rural context and the same or similar factors could result in divergent public interest determinations, depending on the specific characteristics of the proposed service area, or whether the area is served by a rural or non-rural carrier."<sup>7</sup>
14. The Commission further finds that Cox be denied ETC designation for the purpose of receiving Oklahoma Low-Income support.
15. The Commission further finds that Cox, as a subsidiary of Cox Communications, Inc., has filed a forbearance petition (WC Docket No. 09.197) with the FCC requesting designation as an ETC for the federal lifeline program in all of the jurisdictions, including Oklahoma, in which it would seek designation from the relevant state commission pursuant to Section 214 (e). The Commission further acknowledges that the petition for forbearance is for designation as an ETC for the limited purpose of receiving federal Lifeline support only for low-income customers. Therefore, the Commission finds that Cox's ETC designation for federal Low-Income support is conditioned upon and subject to any requirements, compliance plans or mandates from the FCC as a result of its forbearance petition that is relevant to this Commission's jurisdiction and order.

### **ORDER**

THE COMMISSION THEREFORE ORDERS that Cox Oklahoma Telcom L.L.C. shall be designated as an Eligible Telecommunications Carrier in the Bixby exchange, for the sole purpose of receiving low-income support for Lifeline and Link-Up from the federal Universal Service Fund.

THE COMMISSION FURTHER ORDERS that it is not in the public interest to designate Cox Oklahoma Telcom L.L.C as an Eligible Telecommunications Carrier in the Bixby

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<sup>7</sup> In the Matter of Federal-State Joint Board on Universal Service, *Report and Order* issued in CC Docket No. 96-45, released March 17, 2005.

exchange for the purpose of receiving Low-Income support from the Oklahoma Universal Service Fund.

THIS ORDER SHALL BE EFFECTIVE immediately.

CORPORATION COMMISSION OF OKLAHOMA

*Patrice Douglas*

PATRICE DOUGLAS, CHAIRMAN

*Bob Anthony*

BOB ANTHONY, VICE CHAIRMAN

*Concurring in part and dissenting in part –  
Statement attached*

DANA L. MURPHY, COMMISSIONER

CERTIFICATION

DONE AND PERFORMED by the Commissioners participating in the making of this Order, as shown by their signatures above, this 7<sup>th</sup> day of February, 2013.

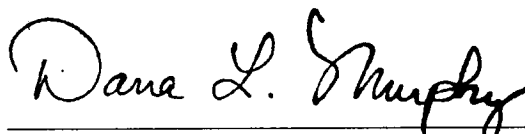
[Seal]

*Peggy Mitchell*

PEGGY MITCHELL, Commission Secretary

**COMMISSIONER DANA L. MURPHY, concurring in part and dissenting in part  
in Cause No. PUD 201100030:**

I concur in the majority's decision regarding Applicant's request for designation as an ETC for the purpose of receiving support from the Oklahoma Universal Service Fund. However, I respectfully dissent from today's decision regarding Applicant's request for designation as an ETC for the purpose of receiving support from the Federal Universal Service Fund because I question whether all federal statutory requirements for that designation have been met in the instant case and, further, I cannot support what would appear to be conflicting public interest findings in the order.

A handwritten signature in black ink that reads "Dana L. Murphy". The signature is written in a cursive, flowing style. The first name "Dana" is written with a large, open 'D'. The last name "Murphy" is written with a large, open 'M' and a long, sweeping tail on the 'y'.

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DANA L. MURPHY, Commissioner



**BEFORE THE CORPORATION COMMISSION OF OKLAHOMA**

APPLICATION OF COX OKLAHOMA TELCOM ) CAUSE NO. PUD 201100029  
L.L.C. FOR DESIGNATION AS AN ELIGIBLE )  
TELECOMMUNICATIONS CARRIER ) ORDER NO. **607500**

HEARING: August 28, 2012, before the Commission *en banc*

APPEARANCES: Marc Edwards, Attorney *representing* Cox Oklahoma Telcom, L.L.C.  
Cody B. Waddell, Attorney *representing* Oklahoma Communications  
Systems Inc. d/b/a TDS Telecom  
Allison Chandler, Assistant General Counsel *representing*  
Public Utility Division, Oklahoma Corporation Commission

**FINAL ORDER ADOPTING THE REPORT OF THE ADMINISTRATIVE LAW JUDGE**

BY THE COMMISSION:

The Corporation Commission of the State of Oklahoma ("Commission") being regularly in session and the undersigned Commissioners being present and participating, there comes on for consideration and action the recommendation of the Administrative Law Judge ("ALJ") for an order of the Commission.

**PROCEDURAL HISTORY**

1. On February 22, 2011, Cox Oklahoma Telcom L.L.C. ("Cox") filed an Application in the above styled Cause, requesting that it be designated as an Eligible Telecommunications Carrier ("ETC") in the Choctaw Exchange of Oklahoma Communication Systems, Inc. d/b/a TDS Telecom/Oklahoma Communication Systems, Inc. ("OCSI").
2. On February 25, 2011, Cox Oklahoma filed a Motion to Establish Procedural Schedule, which was granted by the Commission through the issuance of Order No. 585717 on May 25, 2011.
3. An Entry of Appearance was filed by OCSI on March 8, 2011.
4. On May 13, 2011, a Motion for protective order was filed by Cox and Order No. 586599 issued on June 23, 2011, granted the protective order.

5. Prefiled testimony was filed May 13, 2011, on behalf of Cox and the Public Utility Division ("PUD").
6. Post Hearing Briefs were filed by both Cox and PUD on August 18, 2011.
7. Supplemental testimony on behalf of PUD was filed on June 6, 2011 and supplemental testimony on behalf of COX was filed June 10, 2011.
8. The hearing was held June 30, 2011, before the Administrative Law Judge ("ALJ").
9. Post Hearing Briefs were filed by both Cox and Staff on August 18, 2011.
10. The ALJ issued the Report of the Administrative Law Judge on July 27, 2012, recommending the Commission designate Cox as an ETC in the Choctaw exchange for the sole purpose of receiving low-income support for Lifeline and Link-Up from the Federal Universal Service Fund.
11. Cox filed Exceptions to the Report of the ALJ and a Motion for Oral Argument on August 8, 2012.
12. Oral arguments were heard before the Commission *en banc* on August 28, 2012.

The Report of the ALJ, as well as a summary of evidence, is attached hereto as Exhibit A.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Commission finds that it has jurisdiction in this Cause pursuant to Article IX, Section 18 of the Oklahoma Constitution, 17 O.S. §139.106; and 47 U.S.C. §214(e).
2. The Commission further finds that Cox Oklahoma is seeking designation as an ETC in the Choctaw Exchange of OCSI for federal and Oklahoma low-income support and is not seeking high cost support. The federal high cost and low-income programs are described in Sections 54.307, 54.401 and 54.411 of the Federal Communications Commission's ("FCC") rules. The Commission rule for the Oklahoma Lifeline Service Program is found at OAC 165:59-9-3.
3. The Commission further finds that ETC applications are governed by the requirements of Section 214(e) of the Communications Act, and the FCC has adopted guidelines it

suggests that states consider while evaluating ETC applications.<sup>1</sup> These guidelines are not mandatory, but provide a general framework of consideration of the issues raised in the ETC certification process.

4. Under the relevant FCC criteria, an ETC applicant must:
  - a. Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service.
  - b. Demonstrate its ability to remain functional in emergency situations.
  - c. Demonstrate that it will satisfy applicable customer service standards.
  - d. Show “that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas where it seeks designation.”
  - e. Certify that it acknowledges that it may be required to provide equal access if no other carrier in the service area does so.
  - f. Demonstrate that grant of ETC status is in the public interest.<sup>2</sup>
5. The Commission further finds that Cox is qualified to be a Low-Income ETC in the Choctaw Exchange under the terms of both the federal Communications Act and the relevant FCC guidelines. Thus, Cox should be granted ETC status for the purpose of receiving federal Low-Income Support.
6. The Commission further finds that in the case of rural exchanges, such as the Choctaw exchange, state commissions are permitted to designate multiple ETCs when they determine doing so is in the public interest.<sup>3</sup>
7. The Commission further finds that its standard for determining whether or not designating additional competitive ETCs (CETCs) is in the public interest was determined in Cause No. PUD 200700408.<sup>4</sup> In said Cause, the Commission found it appropriate to designate only one CETC in each rural exchange unless compelling public interest issues make an additional CETC designation necessary or desirable.

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<sup>1</sup> 47 U.S.C. §214(e); Federal-State Joint Board on Universal Service, *Report and Order*, 20 FCC Rcd 6371, 6396 (2005) (“*ETC Guidelines Order*”).

<sup>2</sup> 47 C.R.F. § 54.202.

<sup>3</sup> 47 U.S.C. § 2134(e)(2).

<sup>4</sup> “With the availability of Lifeline service from the ILEC and the availability of Lifeline Service from one CETC, the ALJ finds that the goals of the universal service fund will be met, since neither competition nor mobility are goals of the federal universal service fund.” ¶32 of ALJ Snapp’s Report filed May 26, 2009, in Cause No. PUD 200700408.

8. The Commission further finds that Cox has requested designation in OCSI's Choctaw exchange, which is a rural service territory, and that US Cellular Corp. ("US Cellular") was designated throughout OCSI's study area by Order No. 579513, in Cause No. PUD 200700408.
9. The Commission notes that US Cellular accepted secondary Carrier or Last Resort ("COLR") obligations in OCSI's study area and thus its ETC designation serves the public interest.
10. The Commission further finds that Cox has declined to assume secondary COLR responsibilities.
11. The Commission further finds that for the purpose of receiving Low-Income support from the Oklahoma Universal Service Fund, the applicable rule is 165:59-3-14(d)(3)<sup>5</sup>, which is applicable to ETC designation in an area where the Incumbent Local Exchange Carrier ("ILEC") serves fewer than 75,000 lines. OCSI serves fewer than 75,000 access lines in Oklahoma. Therefore, the Commission finds it is not in the public interest to designate Cox as an ETC in the Choctaw exchange for the purpose of receiving Oklahoma Low-Income support.
12. The Commission further finds that the Report of the ALJ, attached hereto as Exhibit A, should be adopted as the order of the Commission should be issued in this cause.
13. The Commission further finds that Cox, as a subsidiary of Cox Communications, Inc., has filed a forbearance petition (WC Docket No. 09.197) with the FCC requesting designation as an ETC for the federal lifeline program in all of the jurisdictions, including

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<sup>5</sup> (d) For any area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand (75,000) access lines within the State, only the incumbent local exchange telecommunications service provider shall be eligible for OUSF funding except;

(3) When the Commission, after notice and hearing, makes a determination that it is in the public interest that another local exchange telecommunications service provider should also be deemed a carrier of last resort and be eligible to receive OUSF funding in addition to the incumbent local exchange telecommunications service provider. It shall not be in the public interest to designate another local exchange telecommunications service provider as being a carrier of last resort and eligible to receive OUSF funding if such designation would cause a significant adverse economic impact on users of telecommunications services generally or if the other carrier refuses to seek and accept carrier of last resort obligations throughout the universal service area as designated by the Commission. The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area and the other local exchange telecommunications service provider meets the requirements of subsection (c) of this Section.

Oklahoma, in which it would seek designation from the relevant state commission pursuant to Section 214 (e). The Commission further acknowledges that the petition for forbearance is for designation as an ETC for the limited purpose of receiving federal Lifeline support only for low-income customers. Therefore, the Commission finds that Cox's ETC designation for federal Low-Income support is conditioned upon and subject to any requirements, compliance plans or mandates from the FCC as a result of its forbearance petition that is relevant to this Commission's jurisdiction and order.

**ORDER**

THE COMMISSION THEREFORE ORDERS that Cox Oklahoma Telecom L.L.C. shall be designated as an Eligible Telecommunications Carrier in the Choctaw exchange of Oklahoma Communication Systems, Inc. d/b/a TDS Telecom/Oklahoma Communication Systems. Inc., for the sole purpose of receiving low-income support for Lifeline and Link-Up from the federal Universal Service Fund.

THE COMMISSION FURTHER ORDERS that it is not in the public interest to designate Cox Oklahoma Telecom L.L.C as an Eligible Telecommunications Carrier in the Choctaw exchange for the purpose of receiving Low-Income support from the Oklahoma Universal Service Fund.

THIS ORDER SHALL BE EFFECTIVE immediately.

CORPORATION COMMISSION OF OKLAHOMA

  
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PATRICE DOUGLAS, CHAIRMAN

  
\_\_\_\_\_  
BOB ANTHONY, VICE CHAIRMAN

*Concurring in part and dissenting in part –  
Statement attached*  
\_\_\_\_\_  
DANA L. MURPHY, COMMISSIONER

CERTIFICATION

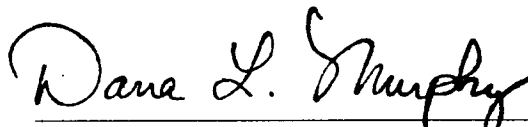
DONE AND PERFORMED by the Commissioners participating in the making of this Order, as shown by their signatures above, this 7<sup>th</sup> day of February, 2013.

[Seal]

  
\_\_\_\_\_  
PEGGY MITCHELL, Commission Secretary

**COMMISSIONER DANA L. MURPHY, concurring in part and dissenting in part  
in Cause No. PUD 201100029:**

I concur in the majority's decision regarding Applicant's request for designation as an ETC for the purpose of receiving support from the Oklahoma Universal Service Fund. However, I respectfully dissent from today's decision regarding Applicant's request for designation as an ETC for the purpose of receiving support from the Federal Universal Service Fund because I question whether all federal statutory requirements for that designation have been met in the instant case and, further, I cannot support what would appear to be conflicting public interest findings in the order.

  
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DANA L. MURPHY, Commissioner

**FILED**  
JUL 27 2012

## BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

APPLICATION OF COX OKLAHOMA ) CAUSE NO. PUD 201100029  
TELCOM L.L.C. FOR DESIGNATION AS )  
AN ELIGIBLE TELECOMMUNICATIONS ) ORDER NO.  
CARRIER )

HEARING: June 30, 2011 in Courtroom B  
2101 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105  
*Before* Maribeth D. Snapp, Administrative Law Judge

APPEARANCES: Marc Edwards, Attorney *representing* Cox Oklahoma Telecom, L.L.C.  
James L. Myles, Deputy General Counsel and Judith Johnson, Senior  
Attorney, *representing* Public Utility Division  
Cody B. Waddell, Attorney *representing* Oklahoma Communications  
Systems Inc. d/b/a TDS Telecom/Oklahoma Communications Systems,  
Inc.

**Report of the Administrative Law Judge**

Upon review of all the testimony and filings in this case, and after a thorough review of all the evidence presented at the hearing on the merits in this Cause, the Administrative Law Judge ("ALJ") submits this Report to the Corporation Commission of Oklahoma ("Commission"). Included in this Report are the ALJ's recommended findings of fact and conclusions of law.

**Summary of Recommendation**

The ALJ recommends that the Commission designate Cox Oklahoma Telcom L.L.C. ("Cox Oklahoma") as an Eligible Telecommunications Carrier ("ETC") in the Choctaw Exchange of Oklahoma Communication Systems Inc. d/b/a TDS Telecom/Oklahoma Communications Systems, Inc. ("OCSI"), for the sole purpose of receiving low-income support for Lifeline and Link-Up from the federal Universal Service Fund. The ALJ further recommends the Commission find that pursuant to OAC 165:55-3-14(d)(3), it is not in the public interest to designate Cox Oklahoma an ETC in the Choctaw exchange for the purpose of receiving Low-Income support from the Oklahoma Universal Service Fund, because Cox Oklahoma has declined to accept secondary Carrier of Last Resort ("COLR") responsibility for the entirety of the Choctaw Exchange.

**Procedural History**

1. On February 22, 2011, Cox Oklahoma filed an Application in the above styled Cause, requesting that it be designated as an ETC in the Choctaw Exchange of OCSI.



2. On February 25, 2011, Cox Oklahoma filed a Motion to Establish Procedural Schedule, which was granted by the Commission through the issuance of Order No. 585717 on May 25, 2011.
3. An Entry of Appearance was filed by OCSI on March 8, 2011.
4. On May 13, 2011, a Motion for Protective Order was filed by Cox Oklahoma and Order No. 586599 issued on June 23, 2011, granted the protective order.
5. Prefiled testimony was filed May 13, 2011, by Curt Stamp on behalf of Cox Oklahoma and on May 20, 2011, by Barbara L. Mallett on behalf of the Public Utility Division Staff ("Staff").
6. Barbara Mallett filed Supplemental testimony on June 6, 2011 and Curt Stamp filed Rebuttal testimony on June 10, 2011. The hearing was held June 30, 2011, before the ALJ.
7. Post Hearing Briefs were filed by both Cox Oklahoma and Staff on August 18, 2011.

#### **Summary of Allegations of the Parties**

Cox Oklahoma seeks to be designated as a Competitive Eligible Telecommunications Carrier ("CETC") within the Choctaw exchange of OCSI. Cox seeks to receive Low-income support from both the federal and Oklahoma Low-Income support funds.

Staff argued that it would not be in the public interest to designate Cox Oklahoma as a CETC in the Choctaw Exchange, because the Commission has previously designated another CETC within the Choctaw Exchange and designation of a second CETC could reduce the federal High Cost Support received by a CETC providing Lifeline services on non-tribal land in Oklahoma.

OCSI did not actively participate in the processing of this Cause and filed no objection to the request of Cox Oklahoma for designation as a CETC in the Choctaw Exchange.

#### **Findings of Fact and Conclusions of Law**

1. The Commission has jurisdiction in this Cause pursuant to Article IX, Section 18 of the Oklahoma Constitution, 17 O.S. §139.106; and 47 U.S.C. §214 (e).
2. The ALJ finds that Cox Oklahoma is a certificated provider of local exchange service and long distance service throughout the State of Oklahoma. Cox Oklahoma has been authorized to provide local and long distance telephone service to residential and business customers in Oklahoma since 1997<sup>1</sup>.

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<sup>1</sup> Commission Order No. 409902; Cause No. PUD 960000341. Cox Oklahoma was authorized to expand its service territory into the Choctaw Exchange by Commission Order No. 429184 issued in Cause No. PUD 980000258..

3. Cox Oklahoma is seeking designation as an ETC in the Choctaw Exchange of OCSI for federal and Oklahoma low-income support only and is not requesting high cost support. The federal high cost and low-income programs are described in Sections 54.307, 54.401 and 54.411 of the FCC rules. The relevant Commission rule for the Oklahoma Lifeline Service Program is found at OAC 165:59-9-3.
4. The Commission designated US Cellular as an ETC for the purpose of receiving both federal High Cost Funds and Oklahoma Low-income support in all exchanges of OCSI, which included the Choctaw Exchange, in Cause No. PUD 200800408.
5. ETC applications are governed by the requirements of Section 214(e) of the Communications Act, and the FCC has adopted guidelines it suggests that states consider when evaluating ETC applications.<sup>2</sup> While the FCC guidelines are not mandatory, they do provide an appropriate general framework for consideration of the issues raised in the ETC certification process, which the ALJ finds has been used in the past by the Corporation Commission.
6. Under Section 214(e), state commissions designate ETCs unless they lack the authority to do so under state law.<sup>3</sup> The ALJ finds that the Oklahoma Corporation Commission has the authority pursuant to 17 O.S. § 139.106 to designate a carrier as an ETC, provided the Oklahoma Commission finds that the carrier:
  - a. Will provide the services supported by the universal service program throughout its designated service area, either by using its own facilities or reselling another carrier's services; and
  - b. Will advertise the availability of its services.<sup>4</sup>
7. The state commission defines the carrier's service area through its normal processes, except in the case of rural telephone companies, whose service areas are their FCC-defined study areas.<sup>5</sup> The Choctaw Exchange of OCSI is contiguous to the Jones Exchange of OCSI, but a non-contiguous exchange to the other exchanges of OCSI and is an FCC defined study area for OCSI. State commissions are required by Section 214(e) to designate multiple ETCs in non-rural areas if more than one carrier applies and meets the statutory standards, and are permitted to designate multiple ETCs in rural areas when they determine that doing so is in the public interest.<sup>6</sup> Since the Choctaw Exchange of OCSI is a rural area, the ALJ finds that prior to designation of Cox Oklahoma as an ETC in the Choctaw Exchange of OCSI, a determination must be made that designation of Cox Oklahoma as an ETC in the Choctaw Exchange is in the public interest.

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<sup>2</sup> 47 U.S.C. § 214(e); Federal-State Joint Board on Universal Service, *Report and Order*, 20 FCC Rcd 6371, 6396 (2005) ("ETC Guidelines Order").

<sup>3</sup> This occurs only when the state commission does not have jurisdiction over the entity that wishes to obtain ETC status. In this case, the Commission has jurisdiction over Cox Oklahoma as a certificated carrier. See 17 O.S. §§ 131 et seq; 17 O.S. §§ 139.101 et seq.

<sup>4</sup> 47 U.S.C. § 214(e)(1).

<sup>5</sup> 47 U.S.C. § 214(e)(5).

<sup>6</sup> 47 U.S.C. § 214(e)(2).

8. The FCC has adopted rules to govern the state ETC designation process, and those rules essentially implement the provisions of Section 214(e).<sup>7</sup> Prior to February 6, 2012, when the FCC issued its *Report and Order and Further Notice of Proposed Rulemaking* in WC Docket 11-42, ("*Lifeline Reform Order*") an important restriction in those rules was a prohibition on granting ETC status to any company that proposed to serve its entire service area via resale.<sup>8</sup> Subsequent to the *Lifeline Reform Order* however, a company may receive low-income support only for Lifeline service through resale, if it has been granted forbearance by the FCC.
9. The FCC has also adopted rules for its own consideration of ETC applications. These rules do not bind the states, but they do provide a general outline of issues to be considered in an ETC designation proceeding. Under the relevant FCC criteria, an applicant must:
  - a. Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service."
  - b. Demonstrate its ability to remain functional in emergency situations.
  - c. Demonstrate that it will satisfy applicable customer service standards.
  - d. Show "that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas where it seeks designation."
  - e. Certify that it acknowledges that it may be required to provide equal access if no other carrier in the service area does so.
  - f. Demonstrate that grant of ETC status is in the public interest."<sup>9</sup>
10. As modified by the FCC's *Lifeline Reform Order*,<sup>10</sup> under 47 U.S.C. §214(e) and the FCC's guidelines, an ETC must provide the services supported by the universal service program throughout its designated service area, either by using its own facilities or by reselling another carrier's facilities after being granted a forbearance by the FCC. The *Lifeline Reform Order* also affirmed the determination made in the FCC's *USF/ICC Transformation Order and FNPRM*<sup>11</sup> that modified the kinds of service that will be supported by the federal Universal Service Fund, such that the Fund will now support "voice telephony service." Eliminated from support are; dual tone multi-frequency signaling or its functional equivalent (also known as touch tone service); single party service; access to operator services; access to interexchange service; access to directory assistance; and access to toll limitation service for low-income customers.<sup>12</sup>
11. The ALJ finds that Cox Oklahoma currently provides telecommunications service in the Choctaw Exchange using its own end-to-end facilities, including Cox Oklahoman's loops and switches. The ALJ finds that Cox Oklahoma is a facilities based carrier for Lifeline services.

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<sup>7</sup> See 47 C.F.R. § 54.201.

<sup>8</sup> 47 C.F.R. § 54.201(i).

<sup>9</sup> 47 C.F.R. § 54.202.

<sup>10</sup> *In the Matter of Lifeline Reform and Modernization*, issued February 6, 2012 in WC Docket No. 11-42

<sup>11</sup> *USF/ICC Transformation Order and FNPRM* FCC 11-161 on December 23, 2011

<sup>12</sup> *In the Matter of Lifeline Reform and Modernization* FCC 11-42 at 365-367

12. The FCC guidelines provide that an ETC must “commit” to provide service “on a timely basis” to customers passed by the ETC’s facilities; and to provide service “within a reasonable time” to customers who are not passed by the ETC’s facilities “if service can be provided at reasonable cost.”<sup>13</sup> Based upon the testimony of Mr. Stamp that Cox Oklahoma provides service to residential customers within its build-out area within industry-standard time frames, and typically can serve a new customer as soon as the telephone number can be ported from the customer’s previous carrier, the ALJ finds that Cox Oklahoma meets this requirement.
13. The FCC’s rules, prior to amendment by *The Lifeline Reform Order* also contemplated that an ETC application would include a five-year plan describing how high-cost support will be spent. The ALJ finds that *The Lifeline Reform Order*,<sup>14</sup> at paragraph 386, amends Section 54.202 to “clarify that a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC. Since Cox Oklahoma is not seeking ETC designation for purposes of receiving high-cost support, the ALJ finds that Cox Oklahoma is not required to not submit a five-year build out plan.
14. Under Section 214(e), an ETC is required to “advertise the availability of [its] services and the charges therefore using media of general distribution.”<sup>15</sup> The ALJ finds that Cox Oklahoma already advertises broadly, using not only its own cable operations, but also in newspapers, billboards, direct mail and other media intended to reach a wide audience in its service area in Oklahoma.
15. The FCC, in its *Lifeline Reform Order*, amended the requirements for advertising Lifeline-supported services. As found at paragraphs 275 – 276, within 6 months of the [February 6, 2012,] order, ETCs must now make specific disclosures in all marketing materials related to the supported service.<sup>16</sup> It was the testimony of Mr. Stamp that Cox Oklahoma will continue to advertise its telephone service in all appropriate media, and will comply with any additional advertising requirements that may be adopted in the FCC’s pending rulemaking on the Lifeline and Link-Up programs or by the Commission. Accordingly, the ALJ finds that Cox Oklahoma will meet the new requirements regarding advertising materials and will advertise the availability of Lifeline using media of general distribution.
16. Under the FCC’s guidelines, an applicant for ETC designation should demonstrate “its ability to remain functional in emergency situations[.]”<sup>17</sup> This demonstration includes

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<sup>13</sup> 47 C.F.R. § 54.202(a)(1).

<sup>14</sup> *In the Matter of Lifeline Reform and Modernization* FCC 11-42

<sup>15</sup> See 47 U.S.C. § 214 (e)(1)(B).

<sup>16</sup> ETCs must explain in clear, easily understood language in all such marketing materials that the offering is a Lifeline-supported service; that only eligible consumers may enroll in the program; what documentation is necessary for enrollment; and that the program is limited to one benefit per household, consisting of either wireline or wireless service. ETCs are also required to explain that Lifeline is a government benefit program, and consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.

<sup>17</sup> 47 C.F.R. § 54.202(a)(2).

information about back-up facilities, the ability to reroute around damaged facilities and the ability to handle traffic spikes. Cox Oklahoma has included back-up power in its network designs to ensure that its customers retain service even when commercial power is unavailable. Cox Oklahoma uses route diversity and other techniques to limit the likelihood that damage to its facilities will cut off service to its customers. For instance, Cox Oklahoma's backbone facilities are based on a "ring in ring" architecture that automatically re-routes traffic if there is a disruption to the normal route between a location and the Cox Oklahoma switch. The ALJ finds that Cox Oklahoma meets the FCC guideline that Cox remain functional in emergency situations.

17. Cox Oklahoma's standard circuit-switched telephone service does not depend on power in the customer's household, and Cox Oklahoma's IP-based service includes battery backup in the customer equipment in accordance with industry standards and relevant regulatory requirements.<sup>18</sup> The ALJ finds that these features allow Cox Oklahoma to maintain service even when there are substantial power outages within its service area, as required by the FCC guidelines.
18. Based upon the testimony of Mr. Stamp, it appears to the ALJ that Cox is compliant with all relevant 911 and E911 requirements, and ensures that all necessary information, including location information and callback data, is provided to the local E911 database and available to the Public Safety Answering Point
19. Cox Oklahoma follows industry standard procedures for addressing traffic spikes within its network, including implementing call gapping when appropriate. In addition, Cox Oklahoma seeks to avoid network congestion issues by monitoring traffic on an ongoing basis and sizing its network and interconnection facilities to maintain call blocking at a level that is below industry standard levels. Cox Oklahoma stated it will comply with all mandated consumer protection requirements, including the federal truth-in-billing rules, advertising requirements and the Commission's rules governing customer notices, late fees, disputes and other consumer issues<sup>19</sup>. The FCC guidelines call for ETC applicants to demonstrate that they will "satisfy applicable consumer protection and service quality standards."<sup>20</sup> The ALJ finds that Cox Oklahoma meets this standard.
20. The FCC guidelines require an ETC to offer "a local usage plan comparable to the one offered by the incumbent LEC" in the ETC's service area. OCSI offers its customers unlimited local calling. Cox Oklahoma offers multiple plans that meet this requirement. As of the date of its Application, Cox Oklahoma offered four different plans in Oklahoma that include unlimited local telephone usage. The most basic plan covers only local telephone service, but includes unlimited local calling.<sup>21</sup> Cox Oklahoma also offers

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<sup>18</sup> Cox Oklahoma has implemented a program for replacement of the backup batteries to ensure that customers do not experience unexpected loss of service.

<sup>19</sup> See OAC 165:55-9-1 *et seq*, Customer Billing and Deposits; OAC 165:55-11-1 *et seq*, Service Denial, Suspension and Disconnection; OAC 165:55-13-1 *et seq*, Operating and Maintenance Requirements.

<sup>20</sup> 47 C.F.R. § 54.202(a)(3).

<sup>21</sup> This service and Cox Oklahoma's local service bundles include each of the elements required by the FCC's universal service rules other than toll limitation, which is offered separately.

packages that include additional local features (such as call waiting and voice mail), that bundle a specific number of long distance minutes with various calling features and that bundle an unlimited number of domestic long distance minutes with calling features.<sup>22</sup> Accordingly, the ALJ finds that the Lifeline plans offered by Cox Oklahoma are comparable to the Lifeline product offered by OCSI.

21. The FCC's guidelines do not require that an ETC offer equal access, but do require that the ETC acknowledge that it could be required to provide equal access in the future if no other ETC provides equal access.<sup>23</sup> Cox Oklahoma acknowledged that it could be required to provide equal access, and certified that it will comply with any equal access requirements that may be imposed on it. Cox Oklahoma also noted that it currently provides equal access to its local telephone customers in Oklahoma; thus, an equal access requirement would not require any significant changes in Cox Oklahoma's current operating procedures. The ALJ finds that Cox Oklahoma meets the requirements regarding equal access.
22. The FCC now requires that a Lifeline-only ETC demonstrate its technical and financial capacity to provide the supported Lifeline service in compliance with all of the low-income program rules.<sup>24</sup> The FCC indicates that relevant considerations for this determination include whether the applicant "previously offered services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceeding in any state."<sup>25</sup> The ALJ finds that the requirements for determining financial and managerial ability have already been examined for Cox Oklahoma as a part of its request for a CCN pursuant to 17 O.S. §131 and the Commission found its ability to be satisfactory. The ALJ further finds that Cox Oklahoma currently offers service to non-Lifeline consumers, has been in business since 1997, does not rely exclusively on USF disbursements to operate and receives revenue from sources other than the federal Universal Service Fund. Cox Oklahoma has not been subject to ETC revocation in any state. Accordingly, the ALJ finds that Cox Oklahoma has the financial and managerial ability to provide Lifeline service in Oklahoma.
23. With regard to a requirement to assume secondary COLR obligations, Barbara Mallet and Curt Stamp, testified that Cox is not required by the Commission's rules, OAC 165:59-3-14(c)(5) to accept secondary COLR responsibility as a criteria for being designated an ETC. The ALJ finds that to receive federal funding, Cox is not required to accept secondary COLR obligations because it seeks only to receive low-income support for Lifeline and Link-Up services. For the purpose of receiving of receiving Low-Income support from the Oklahoma Universal Service Fund however, the applicable rule to be

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<sup>22</sup> See Cox Oklahoma OCC Tariff No. 1, §. 3.1.

<sup>23</sup> 47 C.F.R. § 54.202(a)(5).

<sup>24</sup> *In the Matter of Lifeline Reform and Modernization* FCC 11-42 at 387-388.

<sup>25</sup> *In the Matter of Lifeline Reform and Modernization* FCC 11-42 at 388

considered is 165:59-3-14(d)(3)<sup>26</sup>, which is applicable to ETC designation in an area where the ILEC serves fewer than 75,000 lines. OCSI serves fewer than 75,000 access lines in Oklahoma. Therefore, consistent with 165:59-3-14(d)(3), the ALJ finds it is not in the public interest to designate Cox Oklahoma as an ETC in the Choctaw Exchange for the purpose of receiving funding from the OUSF, because Cox Oklahoma has not agreed to accept secondary COLR responsibility throughout the Choctaw exchange. Accordingly, the ALJ recommends that Cox Oklahoma be denied ETC designation for the purpose of receiving Oklahoma Low-Income support. The ALJ notes that this Cause, along with PUD 201100030<sup>27</sup> is the first request of a CLEC for designation as an ETC within a rural exchange without accepting secondary COLR responsibility throughout the requested rural service territory. Accordingly, this particular issue has not yet been addressed by the Commission.

24. The provisions of the FCC Interim Cap Order, capped the amount of federal High-Cost support that competitive eligible telecommunications carriers ("CETCs") in a state may receive. Under the FCC Interim Cap Order, the annual support for CETCs in each state was capped at the level of support that CETCs were eligible to receive during March, 2008, on an annualized basis<sup>28</sup>. The FCC Interim Cap Order adopted two exceptions to the high-cost support cap. First, a CETC is not subject to the cap if it files cost data demonstrating that its costs are the same or higher than the incumbent carrier. Second, the FCC adopted a limited exception for CETCs to continue receiving uncapped high cost support for lines served on tribal lands<sup>29</sup>. The OCSI Choctaw Exchange is on tribal land.
25. High-Cost support is calculated by dividing the ILEC's cost of service by the number of lines it serves, and High-Cost support is paid out on a per line basis. When a rural ILEC's line count was reduced due to the loss of a customer to a competitor, the rural ILEC's High-Cost support per-line would be increased to compensate the rural ILEC for the reduction in lines<sup>30</sup>. As the rural ILEC's High-Cost support increased, the CETC's

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<sup>26</sup> (d) For any area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand (75,000) access lines within the State, only the incumbent local exchange telecommunications service provider shall be eligible for OUSF funding except:

(3) When the Commission, after notice and hearing, makes a determination that it is in the public interest that another local exchange telecommunications service provider should also be deemed a carrier of last resort and be eligible to receive OUSF funding in addition to the incumbent local exchange telecommunications service provider. It shall not be in the public interest to designate another local exchange telecommunications service provider as being a carrier of last resort and eligible to receive OUSF funding if such designation would cause a significant adverse economic impact on users of telecommunications services generally or if the other carrier refuses to seek and accept carrier of last resort obligations throughout the universal service area as designated by the Commission. The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area and the other local exchange telecommunications service provider meets the requirements of subsection (c) of this Section.

<sup>27</sup> Application of Cox Oklahoma LLC for Designation as an Eligible Telecommunications Carrier – this Application requested designation as an ETC in the service territory of Bixby Telephone Company, a rural ILEC.

<sup>28</sup> FCC Interim Cap Order, ¶ 1.

<sup>29</sup> FCC Interim Cap Order, ¶ 32.

<sup>30</sup> See 47 C.F.R. §301.

High-Cost support in that study area, in turn, to increase due to the FCC's identical support rule<sup>31</sup>.

26. Staff opposed designating Cox Oklahoma as a Low-Income ETC in the Choctaw Exchange, which is on Tribal Land, under the theory that such designation will result in the competitive ETC located on non-Tribal Land, Panhandle Telecommunications Systems, Inc., seeking OUSF support for "lost federal support funds" resulting from the application of the FCC Interim Cap<sup>32</sup>. The ALJ finds that at the time of the hearing in this Cause, the FCC Interim Cap created a rather unique situation in Oklahoma where the designation of additional CETCs on tribal land affected the ability of CETCs on non-tribal land to retain the same level of federal High Cost support that they had been receiving. Because the majority of Oklahoma is considered tribal land, there were only a few CETCs that might have been negatively affected by the FCC Interim Cap Order if additional CETCs had been designated at the time of the June 30, 2011 hearing.
27. After the June 30, 2011 hearing in this Cause, the FCC issued its Connect America Fund Order.<sup>33</sup> Under the provisions of that Order, High Cost support for wireless ETCs is now capped at 2011 levels and the CETC "funds" will be phased out over a five year period. As a result, even if the High Cost support per line for OCSI were to increase because of losing access lines to a CETC, the ALJ finds there will be no increase in High Cost support for any CETC within the OCSI service territory and therefore no negative impact on any CETC providing service on Non-Tribal land as a result of an additional CETC designation.
28. Section 214(e) and the FCC's guidelines both require that with regard to designation of an ETC within a rural area, a determination needs to be made whether designating a carrier as an ETC would serve the public interest.<sup>34</sup> The FCC guidelines focus on "the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering."<sup>35</sup> The ALJ finds that for the following reasons, granting this Application would be in the public interest:
  - a. There will be more consumer choice among customers who are eligible for support from Lifeline and Link-Up. Service from Cox Oklahoma will be a wireline service at a rate that is comparable to the Lifeline rate of OCSI and less than the Lifeline rate offered by U.S. Cellular for comparable service (*note: service from U.S. Cellular is a wireless service*).
  - b. The availability of Cox Oklahoma's service as a competitive alternative could increase telephone penetration among potential Lifeline and Link-Up customers. Cox Oklahoma's advertising may increase the awareness of the Lifeline and Link-

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<sup>31</sup> 47 C.F.R. § 54.307(a)(1).

<sup>32</sup> *In the Matter of High-Cost Universal Service; Federal-State Joint Board on Universal Service; ALLTEL Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers; RCC Minnesota, Inc. and RCC Atlantic, Inc.* New Hampshire ETC Designation Amendment, WC Docket No. 05-337, CC Docket No. 96-45 Order (May 1, 2008), FCC 08-122 ("FCC Interim Cap Order")

<sup>33</sup> *In the Matter of Connect America Fund; A National Broadband Plan for Our Future*, issued in CC Docket No. 96-45, released November 18, 2011.

<sup>34</sup> 47 U.S.C. § 214(e)(2).

<sup>35</sup> 47 C.F.R. § 54.202(c).



Up programs and of the discounts that those programs offer to make telephone service more affordable to the low-income population. This increased awareness could lead more low-income consumers to seek to obtain telephone service, whether from Cox Oklahoma or another ETC, consistent with the purposes of the Lifeline and Link-Up programs.

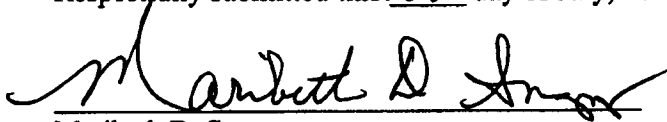
- c. Designation of Cox Oklahoma as an ETC in the Choctaw Exchange may lead to expanded service plans with additional calling features for eligible low-income consumers, including bundled service packages. This would be consistent with the stated goals of the FCC "that consumers have access to quality services at 'just, reasonable and affordable rates.'"<sup>36</sup>

29. The ALJ finds that Cox Oklahoma is qualified to be a low-income ETC in the Choctaw Exchange under both the terms of the federal Communications Act and the relevant FCC guidelines. Based upon the participation by Cox in the Lifeline and Link-Up program in other exchanges in the State, Cox Oklahoma has demonstrated that it is committed to meeting the requirements for the federal universal service program. The ALJ further finds that granting Cox Oklahoma ETC status for the purpose of receiving federal Low-Income support will serve the public interest because it will expand the opportunities for low-income customers in the Choctaw Exchange for wire line telephone service and provide customers the benefits of competition.

### **Recommendation**

The ALJ recommends that Cox Oklahoma be designated as an Eligible Telecommunications Carrier within the Choctaw Exchange of OCSI, for the sole purpose of receiving low-income support for Lifeline and Link-Up from the federal Universal Service Fund. The ALJ further recommends that Cox be denied designation as an Eligible Telecommunications Carrier within the Choctaw Exchange for the purpose of receiving funding from the Oklahoma Universal Service Fund.

Respectfully submitted this 27<sup>th</sup> day of July, 2012.



Maribeth D. Snapp  
Administrative Law Judge

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<sup>36</sup> In the Matter of Lifeline Reform and Modernization FCC 11-42 at 317